

Calendar No. 673

103D CONGRESS  
2D SESSION

**S. 2455**

**A BILL**

To establish a system of licensing, reporting, and regulation for vessels of the United States fishing on the high seas.

SEPTEMBER 28 (legislative day, SEPTEMBER 12), 1994  
Reported with amendments

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 22 (legislative day, SEPTEMBER 12), 1994

Mr. KERRY (for himself and Mr. STEVENS) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

SEPTEMBER 28 (legislative day, SEPTEMBER 12), 1994

Reported by Mr. HOLLINGS, with amendments

[Omit the part struck through and insert the part printed in italic]

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**A BILL**

To establish a system of licensing, reporting, and regulation for vessels of the United States fishing on the high seas.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “High Seas Fisheries  
5       Licensing Act of 1994”.

1 **SEC. 2. PURPOSE.**

2 It is the purpose of this Act:

3 (1) to implement the Agreement to Promote  
4 Compliance with International Conservation and  
5 Management Measures by Fishing Vessels on the  
6 High Seas, adopted by the Conference of the Food  
7 and Agriculture Organization of the United Nations  
8 on November 24, 1993; and

9 (2) to establish a system of licensing, reporting,  
10 and regulation for vessels of the United States fish-  
11 ing on the high seas.

12 **SEC. 3. DEFINITIONS.**

13 As used in this Act:

14 (1) The term “Agreement” means the Agree-  
15 ment to Promote Compliance with International  
16 Conservation and Management Measures by Fishing  
17 Vessels on the High Seas, adopted by the Con-  
18 ference of the Food and Agriculture Organization of  
19 the United Nations on November 24, 1993.

20 (2) The term “FAO” means the Food and Ag-  
21 riculture Organization of the United Nations.

22 (3) The term “high seas” means the waters be-  
23 yond the territorial sea or exclusive economic zone  
24 (or the equivalent) of any nation, to the extent that  
25 such territorial sea or exclusive economic zone (or  
26 the equivalent) is recognized by the United States.

1           (4) The term “high seas fishing vessel” means  
2           any vessel of the United States used or intended for  
3           use—

4                   (A) on the high seas;

5                   (B) for the purpose of the commercial ex-  
6           ploitation of living marine resources; and

7                   (C) as a harvesting vessel, as a mother  
8           ship, or as any other support vessel directly en-  
9           gaged in a fishing operation.

10          (5) The term “~~International~~ *international* con-  
11          servation and management measures” means meas-  
12          ures to conserve or manage one or more species of  
13          living marine resources that are adopted and applied  
14          in accordance with the relevant rules of international  
15          ~~law~~ *law*, as reflected in the 1982 United Nations  
16          Convention on the Law of the ~~Sea~~ *Sea*, and *that are*  
17          recognized by the United States. Such measures  
18          may be adopted by global, regional, or sub-regional  
19          fisheries organizations, subject to the rights and ob-  
20          ligations of their members, or by treaties or other  
21          international agreements.

22          (6) The term “length” means—

23                   (A) for any high seas fishing vessel built  
24           after July 18, 1982, 96 percent of the total  
25           length on a waterline at 85 percent of the least

1           molded depth measured from the top of the  
2           keel, or the length from the foreside of the stem  
3           to the axis of the rudder stock on that water-  
4           line, if that is greater. In ships designed with  
5           a rake of keel the waterline on which this  
6           length is measured shall be parallel to the de-  
7           signed waterline; and

8           (B) for any high seas fishing vessel built  
9           before July 18, 1982, registered length as en-  
10          tered on the vessel's documentation.

11          (7) The term “person” means any individual  
12          (whether or not a citizen of or national of the  
13          United States), any corporation, partnership, asso-  
14          ciation, or other entity (whether or not organized or  
15          existing under the laws of any State), and any Fed-  
16          eral, State, local, or foreign government or any en-  
17          tity of any such government.

18          (8) The term “Secretary” means the Secretary  
19          of Commerce or a designee.

20          (9) The term “vessel of the United States”  
21          means—

22                (A) a vessel documented under chapter  
23                121 of title 46, *United States Code*, or num-  
24                bered in accordance with chapter 123 of title  
25                ~~46~~; 46, *United States Code*;

1 (B) a vessel owned in whole or part by—

2 (i) the United States or a territory,  
3 commonwealth, or possession of the United  
4 States;

5 (ii) a State or political subdivision  
6 thereof;

7 (iii) a citizen or national of the United  
8 States; or

9 (iv) a corporation created under the  
10 laws of the United States or any State, the  
11 District of Columbia, or any territory,  
12 commonwealth, or possession of the United  
13 States; unless the vessel has been granted  
14 the nationality of a foreign nation in ac-  
15 cordance with article 92 of the 1982  
16 United Nations Convention on the Law of  
17 the Sea and a claim of nationality or reg-  
18 istry for the vessel is made by the master  
19 or individual in charge at the time of the  
20 enforcement action by an officer or em-  
21 ployee of the United States authorized to  
22 enforce applicable provisions of the United  
23 States law; and

24 (C) a vessel that was once documented  
25 under the laws of the United States and, in vio-

lation of the laws of the United States, was either sold to a person not a citizen of the United States or placed under foreign registry or a foreign flag, whether or not the vessel has been granted the nationality of a foreign nation.

(10) The terms “vessel subject to the jurisdiction of the United States” and “vessel without nationality” have the same meaning as in ~~46 U.S.C. App. 1903(c)~~ *section 1903(c) of title 46 United States Code Appendix.*

#### **SEC. 4. LICENSING.**

(a) IN GENERAL.—No high seas fishing vessel shall engage in harvesting operations on the high seas unless the vessel has on board a valid license issued under this section.

(b) ELIGIBILITY.—

(1) Any vessel of the United States is eligible to receive a license under this section, unless the vessel was previously authorized to be used for fishing on the high seas by a foreign nation, and—

(A) the foreign nation suspended such authorization because the vessel undermined the effectiveness of international conservation and management measures, and the suspension has not expired; or

1           (B) the foreign nation, within the last  
2           three years preceding application for a license  
3           under this section, withdrew such authorization  
4           because the vessel undermined the effectiveness  
5           of international conservation and management  
6           measures.

7           (2) The restriction in paragraph (1) does not  
8           apply where ownership of the vessel has changed  
9           since the vessel undermined the effectiveness of  
10          international conservation and management meas-  
11          ures, and the new owner has provided sufficient evi-  
12          dence to the Secretary demonstrating that the pre-  
13          vious owner or operator has no further legal, bene-  
14          ficial or financial interest in, or control of, the ves-  
15          sel.

16          (3) The restriction in paragraph (1) does not  
17          apply where the Secretary makes a determination  
18          that issuing a license would not subvert the purposes  
19          of the Agreement.

20          (4) The Secretary may not issue a license to a  
21          vessel unless he or she is satisfied that the United  
22          States will be able to exercise effectively its respon-  
23          sibilities under the Agreement with respect to that  
24          vessel.

25          (c) APPLICATION.—



1           (1) The owner or operator of a high seas fish-  
2           ing vessel may apply for a license under this section  
3           by completing an application form prescribed by the  
4           Secretary.

5           (2) The application form shall contain—

6                   (A) the vessel's name, previous names (if  
7                   known), official numbers, and port of record;

8                   (B) previous flag (if any);

9                   (C) International Radio Call Sign (if any);

10                  (D) names and addresses of owners and  
11                  operators;

12                  (E) where and when built;

13                  (F) type of vessel;

14                  (G) length; and

15                  (H) any other information the Secretary  
16                  requires.

17           (d) CONDITIONS.—The Secretary shall establish such  
18           conditions and restrictions on each license issued under  
19           this section as are necessary and appropriate to carry out  
20           the obligations of the United States under the Agreement,  
21           including but not limited to the following:

22                   (1) The vessel shall be marked in accordance  
23                   with the FAO Standard Specifications for the Mark-  
24                   ing and Identification of Fishing Vessels, or with  
25                   regulations issued under section 305 of the Magnu-

1 son Fishery Conservation and Management Act (16  
2 U.S.C. 1855).

3 (2) The license holder shall report such infor-  
4 mation as the Secretary by regulation requires, in-  
5 cluding area of fishing operations and catch statis-  
6 tics. The Secretary shall promulgate regulations con-  
7 cerning conditions under which information submit-  
8 ted under this subsection may be released.

9 (e) FEES.—

10 (1) The Secretary may by regulation establish  
11 the level of fees to be charged for licenses issued  
12 under this section. The level of fees charged under  
13 this paragraph shall not exceed the administrative  
14 costs incurred in issuing such licenses. The licensing  
15 fee shall be in addition to any fee required under  
16 any regional licensing regime applicable to high seas  
17 fishing vessels.

18 (2) The fees authorized by paragraph (1) shall  
19 be collected and credited to the Operations, Re-  
20 search and Facilities account of the National Oce-  
21 anic and Atmospheric Administration. ~~Any fees col-~~  
22 ~~lected shall be available until expended for the pur-~~  
23 ~~pose of implementing this Act, to the extent and in~~  
24 ~~the amounts provided in advance in appropriations~~  
25 ~~acts.~~ *Fees collected under this subsection shall be*

1       *available for the necessary expenses of the National*  
2       *Oceanic and Atmospheric Administration in imple-*  
3       *menting this Act, and shall remain available until ex-*  
4       *pended.*

5       (f) DURATION.—A license issued under this section  
6 is valid for the period specified in regulations issued under  
7 section 5(d). A license issued under this section is void  
8 in the event the vessel is no longer eligible for U.S. docu-  
9 mentation, such documentation is revoked or denied, or  
10 the vessel is deleted from such documentation.

11 **SEC. 5. RESPONSIBILITIES OF THE SECRETARY.**

12       (a) RECORD.—The Secretary shall maintain an auto-  
13 mated file or record of high seas fishing vessels issued li-  
14 censes under section 4, including all information submit-  
15 ted under section 4(c)(2).

16       (b) INFORMATION TO FAO.—The Secretary, in co-  
17 operation with the Secretaries of State and Transpor-  
18 tation, shall—

19               (1) make available to FAO information con-  
20 tained in the record maintained under subsection

21       (a);

22               (2) promptly notify FAO of changes in such in-  
23 formation;

1           (3) promptly notify FAO of additions to or de-  
2       letions from the record, and the reason for any dele-  
3       tion;

4           (4) convey to FAO information relating to any  
5       license granted under section 4(b)(3), including the  
6       vessel's identity, owner or operator, and factors rel-  
7       evant to the Secretary's determination to issue the  
8       license;

9           (5) report promptly to FAO all relevant infor-  
10      mation regarding any activities of high seas fishing  
11      vessels that undermine the effectiveness of inter-  
12      national conservation and management measures, in-  
13      cluding the identity of the vessels and *any* sanctions  
14      imposed; and

15          (6) provide the FAO a summary of evidence re-  
16      garding any activities of foreign vessels that under-  
17      mine the effectiveness of international conservation  
18      and management measures.

19      (c) INFORMATION TO FLAG STATES.—The Secretary,  
20   in cooperation with the Secretary of State and the Sec-  
21   retary of Transportation, shall, where he or she has rea-  
22   sonable grounds to believe that a foreign ~~high seas fishing~~  
23   vessel has engaged in activities undermining the effective-  
24   ness of international conservation and management meas-  
25   ures—

1           (1) provide to the flag State information, in-  
2           cluding appropriate evidentiary material, relating to  
3           those activities; and

4           (2) when such foreign ~~high seas fishing~~ vessel  
5           is voluntarily in a United States port, the Secretary  
6           shall promptly notify the flag State. If requested by  
7           the flag State, the Secretary shall make arrange-  
8           ments to undertake such lawful investigatory meas-  
9           ures as may be considered necessary to establish  
10          whether the ~~high seas fishing~~ vessel has been used  
11          contrary to the provisions of the Agreement.

12          (d) REGULATIONS.—The Secretary, after consulta-  
13          tion with the Secretary of State and the Secretary of  
14          Transportation, may promulgate such regulations, in ac-  
15          cordance with section 553 of title 5, United States Code,  
16          as may be necessary to carry out the purposes of the  
17          Agreement and this Act. The Secretary shall coordinate  
18          such regulations with any other entities regulating high  
19          seas fishing vessels, *in order* to minimize duplication of  
20          license application and reporting requirements. To the ex-  
21          tent practicable, such regulations shall also be consistent  
22          with regulations implementing fishery management plans  
23          under the Magnuson Fishery Conservation and Manage-  
24          ment Act (16 U.S.C. 1801 et seq.).

1 (e) NOTICE OF INTERNATIONAL CONSERVATION AND  
2 MANAGEMENT MEASURES.—The Secretary, in consulta-  
3 tion with the Secretary of State, shall publish in the Fed-  
4 eral Register, from time to time, a notice listing inter-  
5 national conservation and management measures recog-  
6 nized by the United States.

7 **SEC. 6. UNLAWFUL ACTIVITIES.**

8 It is unlawful for any person subject to the jurisdic-  
9 tion of the United States—

10 (1) to use a high seas fishing vessel on the high  
11 seas in contravention of international conservation  
12 and management measures described in section 5(e);

13 (2) to use a high seas fishing vessel on the high  
14 seas, unless the vessel has on board a valid license  
15 issued under section 4;

16 (3) to use a high seas fishing vessel in violation  
17 of the conditions or restrictions of a license issued  
18 under section 4;

19 (4) to falsify any information required to be re-  
20 ported, communicated, or recorded pursuant to this  
21 Act or any regulation issued under this Act, or to  
22 fail to submit in a timely fashion any required infor-  
23 mation, or to fail to report to the Secretary imme-  
24 diately any change in circumstances that has the ef-

1       fect of rendering any such information false, incom-  
2       plete, or misleading;

3           (5) to refuse to permit an authorized officer to  
4       board a high seas fishing vessel subject to such per-  
5       son's control for purposes of conducting any search  
6       or inspection in connection with the enforcement of  
7       this Act or any regulation issued under this Act;

8           (6) to forcibly assault, resist, oppose, impede,  
9       intimidate, or interfere with an authorized officer in  
10      the conduct of any search or inspection described in  
11      paragraph (5);

12          (7) to resist a lawful arrest or detention for any  
13      act prohibited by this section;

14          (8) to interfere with, delay, or prevent, by any  
15      means, the apprehension, arrest, or detection of an-  
16      other person, knowing that such person has commit-  
17      ted any act prohibited by this section;

18          (9) to ship, transport, offer for sale, sell, pur-  
19      chase, import, export, or have custody, control, or  
20      possession of, any living marine resource taken or  
21      retained in violation of this Act or any regulation or  
22      license issued under this Act; or

23          (10) to violate any provision of this Act or any  
24      regulation or license issued under this Act.

1 **SEC. 7. ENFORCEMENT PROVISIONS.**

2 (a) DUTIES OF SECRETARIES OF COMMERCE AND  
3 TRANSPORTATION.—This Act shall be enforced by the  
4 Secretary of Commerce and the Secretary of Transpor-  
5 tation. Such Secretaries may by agreement utilize, on a  
6 reimbursable basis or otherwise, the personnel, services,  
7 equipment (including aircraft and vessels), and facilities  
8 of any other Federal agency, or of any State agency, in  
9 the performance of such duties. Such Secretaries shall,  
10 and the head of any Federal or State agency that has en-  
11 tered into an agreement with either such Secretary under  
12 this section may (if the agreement so provides), authorize  
13 officers to enforce the provisions of this Act or any regula-  
14 tion or license issued under this Act.

15 (b) DISTRICT COURT JURISDICTION.—The district  
16 courts of the United States shall have exclusive jurisdic-  
17 tion over any case or controversy arising under the provi-  
18 sions of this Act. In the case of Guam, and any Common-  
19 wealth, territory, or possession of the United States in the  
20 Pacific Ocean, the appropriate court is the United States  
21 District Court for the District of Guam, except that in  
22 the case of American Samoa, the appropriate court is the  
23 United States District Court for the District of Hawaii.

24 (c) POWERS OF ENFORCEMENT OFFICERS.—

25 (1) Any officer who is authorized (by the Sec-  
26 retary, the Secretary of Transportation, or the head



1 of any Federal or State agency that has entered into  
2 an agreement with such Secretaries under subsection  
3 (a)) to enforce the provisions of this Act may—

4 (A) with or without a warrant or other  
5 process—

6 (i) arrest any person, if the officer has  
7 reasonable cause to believe that such per-  
8 son has committed an act prohibited by  
9 section 9(a);

10 (ii) board, and search or inspect, any  
11 high seas fishing vessel;

12 (iii) seize any high seas fishing vessel  
13 (together with its fishing gear, furniture,  
14 appurtenances, stores, and cargo) used or  
15 employed in, or with respect to which it  
16 reasonably appears that such vessel was  
17 used or employed in, the violation of any  
18 provision of this Act or any regulation or  
19 license issued under this Act;

20 (iv) seize any living marine resource  
21 (wherever found) taken or retained, in any  
22 manner, in connection with or as a result  
23 of the commission of any act prohibited by  
24 section 6; and

1 (v) seize any other evidence related to  
2 any violation of any provision of this Act  
3 or any regulation or license issued under  
4 this Act;

5 (B) execute any warrant or other process  
6 issued by any court of competent jurisdiction;  
7 and

8 (C) exercise any other lawful authority.

9 (2) Subject to the direction of the Secretary, a  
10 person charged with law enforcement responsibilities  
11 by the Secretary who is performing a duty related  
12 to enforcement of a law regarding fisheries or other  
13 marine resources may make an arrest without a war-  
14 rant for an offense against the United States com-  
15 mitted in his presence, or for a felony cognizable  
16 under the laws of the United States, if he has rea-  
17 sonable grounds to believe that the person to be ar-  
18 rested has committed or is committing a felony.

19 (d) ISSUANCE OF CITATIONS.—If any authorized offi-  
20 cer finds that a high seas fishing vessel is operating or  
21 has been operated in violation of any provision of this Act,  
22 such officer may issue a citation to the owner or operator  
23 of such vessel in lieu of proceeding under subsection (c).  
24 If a permit has been issued pursuant to this Act for such  
25 vessel, such officer shall note the issuance of any citation

1 under this subsection, including the date thereof and the  
2 reason therefor, on the permit. The Secretary shall main-  
3 tain a record of all citations issued pursuant to this sub-  
4 section.

5 **SEC. 8. CIVIL PENALTIES AND LICENSE SANCTIONS.**

6 (a) CIVIL PENALTIES.—

7 (1) Any person who is found by the Secretary,  
8 after notice and opportunity for a hearing in accord-  
9 ance with section 554 of title 5, United States Code,  
10 to have committed an act prohibited by section 6  
11 shall be liable to the United States for a civil pen-  
12 alty. The amount of the civil penalty shall not exceed  
13 \$100,000 for each violation. Each day of a continu-  
14 ing violation shall constitute a separate offense. The  
15 amount of such civil penalty shall be assessed by the  
16 Secretary by written notice. In determining the  
17 amount of such penalty, the Secretary shall take  
18 into account the nature, circumstances, extent, and  
19 gravity of the prohibited acts committed and, with  
20 respect to the violation, the degree of culpability,  
21 any history of prior offenses, and such other matters  
22 as justice may require.

23 (2) The Secretary may compromise, modify, or  
24 remit, with or without conditions, any civil penalty

1 that is subject to imposition or that has been im-  
 2 posed under this section.

3 (b) LICENSE SANCTIONS.—

4 (1) In any case in which—

5 (A) a vessel of the United States has been  
 6 used in the commission of an act prohibited  
 7 under section 6;

8 (B) the owner or operator of a vessel or  
 9 any other person who has been issued or has  
 10 applied for a license under section 4 has acted  
 11 in violation of section 6; or

12 (C) any amount in settlement of a civil ~~for-~~  
 13 ~~feiture~~ *forfeiture, civil penalty, or criminal fine*  
 14 imposed on a *high seas fishing* vessel or other  
 15 property, or ~~any civil penalty or criminal fine~~  
 16 ~~imposed on a vessel or~~ *on an* owner or operator  
 17 of a *such* vessel of the United States or any  
 18 ~~other person who has been issued or has ap-~~  
 19 ~~plied for a license under any fishery resource~~  
 20 statute enforced by the Secretary, has not been  
 21 paid and is overdue, the Secretary may—

22 (i) revoke any license issued with re-  
 23 spect to such vessel or person, with or  
 24 without prejudice to the issuance of subse-  
 25 quent licenses;

1 (ii) suspend such license for a period  
2 of time considered by the Secretary to be  
3 appropriate;

4 (iii) deny such license; or

5 (iv) impose additional conditions and  
6 restrictions on ~~any such license~~ *license*;  
7 issued to or applied for by such vessel or person  
8 under this Act.

9 (2) In imposing a sanction under this sub-  
10 section, the Secretary shall take into account—

11 (A) the nature, circumstances, extent, and  
12 gravity of the prohibited acts for which the  
13 sanction is imposed; and

14 (B) with respect to the violator, the degree  
15 of culpability, any history of prior offenses, and  
16 such other matters as justice may require.

17 (3) Transfer of ownership of a *high seas fishing*  
18 vessel, by sale or otherwise, shall not extinguish any  
19 license sanction that is in effect or is pending at the  
20 time of transfer of ownership. Before executing the  
21 transfer of ownership of a vessel, by sale or other-  
22 wise, the owner shall disclose in writing to the pro-  
23 spective transferee the existence of any license sanc-  
24 tion that will be in effect or pending with respect to  
25 the vessel at the time of the transfer. The Secretary

1       may waive or compromise a sanction in the case of  
2       a transfer pursuant to court order.

3           (4) In the case of any license that is suspended  
4       under this subsection for nonpayment of a civil pen-  
5       alty or criminal fine, the Secretary shall reinstate  
6       the license upon payment of the penalty or fine and  
7       interest thereon at the prevailing rate.

8           (5) No sanctions shall be imposed under this  
9       subsection unless there has been prior opportunity  
10      for a hearing on the facts underlying the violation  
11      for which the sanction is imposed, either in conjunc-  
12      tion with a civil penalty proceeding under this sec-  
13      tion or otherwise.

14      (c) HEARING.—For the purposes of conducting any  
15      hearing under this section, the Secretary may issue sub-  
16      poenas for the attendance and testimony of witnesses and  
17      the production of relevant papers, books, and documents,  
18      and may administer oaths. Witnesses summoned shall be  
19      paid the same fees and mileage that are paid to witnesses  
20      in the courts of the United States. In case of contempt  
21      or refusal to obey a subpoena served upon any person pur-  
22      suant to this subsection, the district court of the United  
23      States for any district in which such person is found, re-  
24      sides, or transacts business, upon application by the  
25      United States and after notice to such person, shall have

1 jurisdiction to issue an order requiring such person to ap-  
2 pear and give testimony before the Secretary or to appear  
3 and produce documents before the Secretary, or both, and  
4 any failure to obey such order of the court may be pun-  
5 ished by such court as a contempt thereof.

6 (d) JUDICIAL REVIEW.—Any person against whom a  
7 civil penalty is assessed under subsection (a) or against  
8 whose vessel a license sanction is imposed under sub-  
9 section (b) (other than a license suspension for  
10 nonpayment of penalty or fine) may obtain review thereof  
11 in the United States district court for the appropriate dis-  
12 trict by filing a complaint against the Secretary in such  
13 court within 30 days from the date of such penalty or  
14 sanction. The Secretary shall promptly file in such court  
15 a certified copy of the record upon which such penalty or  
16 sanction was imposed, as provided in section 2112 of title  
17 28, United States Code. The findings and order of the  
18 Secretary shall be set aside by such court if they are not  
19 found to be supported by substantial evidence, as provided  
20 in section 706(2) of title 5, United States Code.

21 (e) COLLECTION.—

22 (1) If any person fails to pay an assessment of  
23 a civil penalty after it has become a final and  
24 unappealable order, or after the appropriate court  
25 has entered final judgment in favor of the Secretary,

1 the matter shall be referred to the Attorney General,  
2 who shall recover the amount assessed in any appro-  
3 priate district court of the United States. In such  
4 ~~action~~, *action* the validity and appropriateness of the  
5 final order imposing the civil penalty shall not be  
6 subject to review.

7 (2) A high seas fishing vessel (including its  
8 fishing gear, furniture, appurtenances, stores, and  
9 cargo) used in the commission of an act prohibited  
10 by section 6 shall be liable in rem for any civil pen-  
11 alty assessed for such violation under subsection (a)  
12 and may be proceeded against in any district court  
13 of the United States having jurisdiction thereof.  
14 Such penalty shall constitute a maritime lien on  
15 such vessel that may be recovered in an action in  
16 rem in the district court of the United States having  
17 jurisdiction over the vessel.

18 **SEC. 9. CRIMINAL OFFENSES.**

19 (a) OFFENSES.—A person is guilty of an offense if  
20 the person commits any act prohibited by section 6(6), (7),  
21 (8), or (9).

22 (b) PUNISHMENT.—Any offense described in sub-  
23 section (a) is a class A misdemeanor punishable by a fine  
24 under title 18, United States Code, or imprisonment for  
25 not more than one year, or both; except that if in the com-



1 mission of any offense the person uses a dangerous weap-  
2 on, engages in conduct that causes bodily injury to any  
3 authorized officer, or places any such officer in fear of  
4 imminent bodily injury, the offense is a felony punishable  
5 by a fine under title 18, United States Code, or imprison-  
6 ment for not more than 10 years, or both.

7 **SEC. 10. FORFEITURES.**

8 (a) IN GENERAL.—Any high seas fishing vessel (in-  
9 cluding its fishing gear, furniture, appurtenances, stores,  
10 and cargo) used, and any living marine resources (or a  
11 fair market value thereof) taken or retained, in any man-  
12 ner, in connection with or as a result of the commission  
13 of any act prohibited by section 6 shall be subject to for-  
14 feiture to the United States. All or part of such vessel  
15 may, and all such living marine resources shall, be for-  
16 feited to the United States pursuant to a civil proceeding  
17 under this section.

18 (b) JURISDICTION OF DISTRICT COURTS.—Any dis-  
19 trict court of the United States shall have jurisdiction,  
20 upon application of the Attorney General on behalf of the  
21 United States, to order any forfeiture authorized under  
22 subsection (a) and any action provided for under sub-  
23 section (d).

24 (c) JUDGMENT.—If a judgment is entered for the  
25 United States in a civil forfeiture proceeding under this

1 section, the Attorney General may seize any property or  
2 other interest declared forfeited to the United States,  
3 which has not previously been seized pursuant to this Act  
4 or for which security has not previously been obtained.

5 The provisions of the customs laws relating to —

6 (1) the seizure, forfeiture, and condemnation of  
7 property for violation of the customs law;

8 (2) the disposition of such property or the pro-  
9 ceeds from the sale thereof; and

10 (3) the remission or mitigation of any such for-  
11 feiture;

12 shall apply to seizures and forfeitures incurred, or alleged  
13 to have been incurred, under the provisions of this Act,  
14 unless such provisions are inconsistent with the purposes,  
15 policy, and provisions of this Act.

16 (d) PROCEDURE.—

17 (1) Any officer authorized to serve any process  
18 in rem that is issued by a court under section 7(b)  
19 shall—

20 (A) stay the execution of such process; or

21 (B) discharge any living marine resources  
22 seized pursuant to such process;

23 upon receipt of a satisfactory bond or other security  
24 from any person claiming such property. Such bond  
25 or other security shall be conditioned upon such per-

1 son delivering such property to the appropriate court  
2 upon order thereof, without any impairment of its  
3 value, or paying the monetary value of such property  
4 pursuant to an order of such court. Judgment shall  
5 be recoverable on such bond or other security  
6 against both the principal and any sureties in the  
7 event that any condition thereof is breached, as de-  
8 termined by such court.

9 (2) Any living marine resources seized pursuant  
10 to this Act may be sold, subject to the approval of  
11 the appropriate court, for not less than the fair mar-  
12 ket value thereof. The proceeds of any such sale  
13 shall be deposited with such court pending the dis-  
14 position of the matter involved.

15 (e) REBUTTABLE PRESUMPTION.—For purposes of  
16 this section, all living marine resources found on board  
17 a high seas fishing vessel and which are seized in connec-  
18 tion with an act prohibited by section 6 are presumed to  
19 have been taken or retained in violation of this Act, but  
20 the presumption can be rebutted by an appropriate show-  
21 ing of evidence to the contrary.

22 **SEC. 11. EFFECTIVE DATE.**

23 This Act shall take effect 6 months after the entry  
24 into force of the Agreement, or 6 months after the date  
25 of enactment of this Act, whichever is later.

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